



*Community Development*  
39550 Liberty Street  
Fremont, CA 94538

## **ZONING ADMINISTRATOR**



### **General Order of Business**

1. Preliminary (Call to Order – 2:00 p.m.)
2. Public Hearing Items
3. Adjournment

### **Addressing the Zoning Administrator**

Any member of the public may speak on any item under review by the Zoning Administrator after “being recognized” by the Zoning Administrator. After the Zoning Administrator recognizes you, state your name and address. Generally, after the item is introduced, the order of presentation begins with staff introduction and presentation. The project applicant or their authorized representative may then comment. Next, interested members of the public may speak. Additional comments by the applicant or staff, as appropriate, may follow. At the close of testimony, the matter will return to the Zoning Administrator for discussion and action.

### **General Information**

The Zoning Administrator usually holds hearings on the first and third Mondays of each month, except September (9/15 only). Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the Planning Division (510) 494-4440.

Plans and other supporting documents are available at the Development Services Center at 39550 Liberty Street (between Stevenson Boulevard and Walnut Avenue). Plans and other supporting documents may be viewed any day until noon the day of the meeting. Copies will be provided at cost when feasible. The Development Services Center is open 8:00 a.m. to 4:00 p.m., Mondays through Thursdays; and 8:00 a.m. to 12:00 p.m., Fridays.

We appreciate your interest in the conduct of your City’s business. Information about the City or the items discussed in this report may be referred to:

Zoning Administrator  
City of Fremont  
Planning Division  
39550 Liberty Street, P.O. Box 5006  
Fremont, CA 94537-5006  
Telephone: 510-494-4440

**City Staff**  
Barbara Meerjans, Zoning Administrator

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**AGENDA**  
**ZONING ADMINISTRATOR PUBLIC HEARING MEETING 2:00 P.M.**  
**CITY OF FREMONT, CALIFORNIA**  
**39550 LIBERTY STREET**  
**RANCH HIGUERA CONFERENCE ROOM**

**April 20, 2009**

**1. PRELIMINARY**

**1.1 CALL TO ORDER**

**2. CONSENT CALENDAR - NONE**

**NOTICE: ITEMS ON THE PUBLIC HEARING CALENDAR MAY BE MOVED TO THE CONSENT CALENDAR IF NO ONE IS PRESENT TO SPEAK ON THE ITEMS. ALL APPLICANTS AND INTERESTED PERSONS ARE ADVISED TO BE PRESENT AT THE START OF THE MEETING.**

**3. PUBLIC HEARING ITEMS**

**Item 1. SIERRA SOLAR POWER – 45635 NORTHPORT LOOP E – (PLN2009-00188)** – to consider a Zoning Administrator Permit to allow the use of hazardous materials exceeding quantities permitted without a permit pursuant to Sections 8-21501 and 8-22143.3 of the Fremont Municipal Code for a new solar cell manufacturing facility located in the Industrial Planning Area. This project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15301, reuse of an existing industrial building.  
Project Planner – Susan Summerford, (510) 494-4543, [ssummerford@fremont.gov](mailto:ssummerford@fremont.gov)

Recommended Action: Approve, based on conditions and subject to findings.

**4. ADJOURNMENT**

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**ZONING ADMINISTRATOR PERMIT  
STAFF REPORT  
APRIL 20, 2009**

**Project:** **SIERRA SOLAR – (PLN2009-00188)**

**Proposal:** To consider a Zoning Administrator permit to allow hazardous materials above permitted levels.

**Recommendation:** Approve, based on conditions and subject to findings.

**Location:** 45645 and 45655 in the Industrial planning area.  
APN-525-1350-22-2  
(See aerial photo next page)

**Area:** 39,764 square foot existing building on a 2.69-acre lot

**People:** Steven Beese, Applicant  
Dave Dollinger, Property Owner  
Susan H. Sumerford, Staff Planner (510) 494-4543;  
[ssummerford@fremont.gov](mailto:ssummerford@fremont.gov)

**Environmental Review:** This project is exempt from the California Environmental Quality Act (CEQA) per Guideline 15301, reuse of an existing industrial building.

**General Plan:** Restricted Industrial (Commercial-Industrial)

**Zoning:** Restricted Industrial (I-R)

**EXECUTIVE SUMMARY:**

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The applicant is requesting an approval to allow the use of hazardous materials of a type and quantity that require a Zoning Administrator permit. The proposed use of manufacturing solar cells using materials defined as hazardous, as classified and defined in Article 2 and Appendix VI-A of the California Fire Code, is a permitted use in the Restricted Industrial zone. The project is a new solar cell manufacturing facility in an existing industrial building. The facility would occupy approximately 28,362 square feet of an existing 39,764 square foot building, two of the existing three suites in the building. The required parking for this project is provided in the front and rear of the building and meets the parking requirements for a manufacturing use. The applicant has completed a Hazardous Materials Disclosure Statement form pursuant to requirements of the Hazardous Materials Unit. The project is exempt from CEQA as it is a reuse of an industrial building for a manufacturing use.

Staff recommends approval of the proposal to handle, store and use hazardous materials above levels that are permitted.

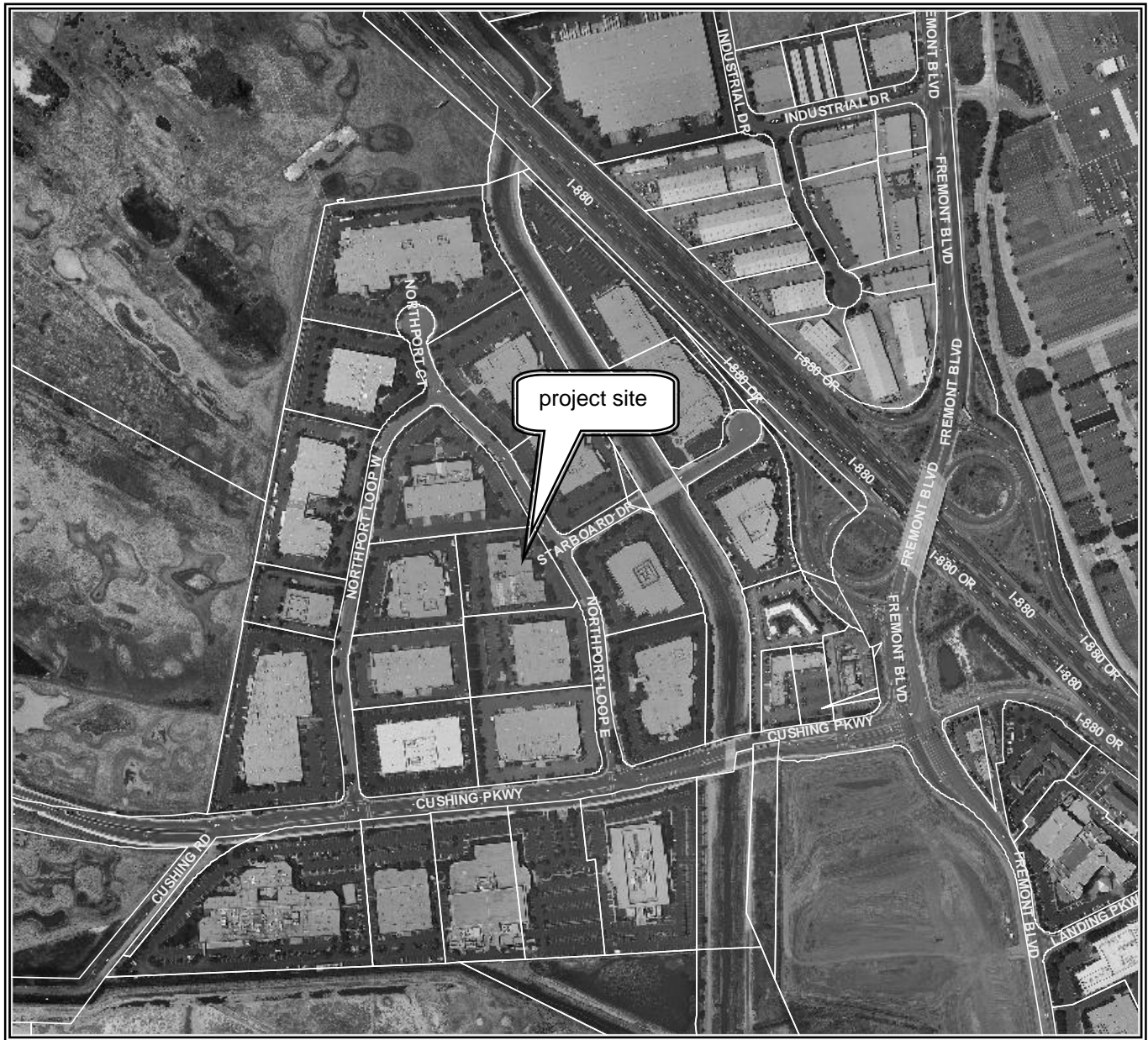


Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



**SURROUNDING LAND USES:**

- North: Industrial uses; approximately 1.5 miles north, Pacific Commons
- South: Industrial uses; approximately 1.75 miles south, Agricultural uses
- East: Industrial uses; approximately 2 miles east, Nummi manufacturing facility
- West: Industrial uses; approximately 1.5 miles west, vacant land

## **BACKGROUND AND PREVIOUS ACTIONS:**

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The project is a solar cell manufacturing facility that proposes to handle, store and utilize high intensity hazardous materials required in the processing of solar cells for eventual use as energy conducting components. The site is an existing industrial building located in the Restricted Industrial zoning district. Adjacent uses include other industrial and high intensity hazardous materials manufacturing and processing facilities.

A building permit for the tenant improvements associated with the proposed use is currently under review by City staff.

## **PROJECT DESCRIPTION:**

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As described, the project involves the reuse of an existing industrial manufacturing facility for a similar use. A Zoning Administrator Permit is required due to the levels of hazardous materials proposed to be used for solar cell processing. An existing screened structure for storage tanks are located in the rear of the building and will be used for the storage of Nitrogen and Hydrogen. The south elevation of the building includes an exterior cabinet for ventilation and an air scrubber, which is to be modified for the proposed solar cell user through the building permit process per staff direction.

Internal storage and use of toxic and pyrophoric gases are to be contained in a 28 square foot cabinet, described as Control Area 1 on Sheet A1.2 of Exhibit "C". Control Area 2 is shown as being located in the manufacturing section of the building and will encompass approximately 26,750 square feet. An additional 12,292 square feet of the interior building is designated as office space.

Other than the proposed upgrades of the exterior storage containers, scrubber and ventilation cabinet and possible enlargement of the existing trash enclosure to accommodate the current proposal, no exterior changes are proposed.

## **PROJECT ANALYSIS:**

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### ***General Plan Conformance:***

The existing General Plan land use designation for the project site is Restricted Industrial (Commercial-Industrial Overlay). The proposed project is consistent with the existing General Plan land use designation for the project site because the use is industrial and proposes to store and handle regulated hazardous materials. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

**HEALTH AND SAFETY GOAL 6: MINIMUM FEASIBLE RISK TO LIVES AND PROPERTY DUE TO THE USE, STORAGE AND TRANSPORTATION OF HAZARDOUS MATERIALS.**

Analysis: By locating in a planning area designated for restricted industrial uses, the proposed solar cell facility is adhering to City standards and policies developed to cluster similar users.

Objective HS 6.2: Sufficient regulation of the storage, transport and handling of hazardous materials within the City.

Analysis: The applicant has applied for a Zoning Administrator Permit to allow the use, storage and transport of hazardous materials above levels that are permitted without regulation in the Industrial zone. Such levels and proposed materials trigger a Hazardous Materials Disclosure statement and a Hazardous Materials Waste Management Plan that includes quantities, proposed use and disposal methods of regulated materials to the satisfaction of the Hazardous Materials Unit of the City of Fremont Fire Department.

Policy HS 6.2.1: Require that hazardous materials be managed in a manner that minimizes the risk to workers and residents.

Analysis: The location of the proposed solar cell facility in a Restricted Industrial zone, as well as the disclosure statement, waste management plan and proper storage of hazardous materials all contribute to the appropriate regulation, monitoring and inspection scheduling of the site.

### ***Zoning Regulations:***

As set forth in Section 8-21500(b) and 8-22143.3 of the Fremont Municipal Code (FMC), storage, use and transport of high intensity hazardous materials are allowed in the existing Restricted Industrial district subject to a Zoning Administrator Permit and in conformance with the applicable provisions included in Article 21.3, as described.

### ***Parking:***

Required parking for industrial uses is calculated at the rate of 1 space per every 300 square feet of building. In this case, a total of 133 spaces are required to be provided. The plans indicate that a total of 141 spaces are provided, including 5 accessible stalls.

### ***Circulation:***

The proposed development is located on Northport Loop East, which does include full street improvements along the project's frontage. Northport Loop is connected to the larger street index by Cushing Parkway, which is defined as a collector street. Cushing Parkway also links to the I-880 Interstate, which allows for the industrial area to be separated from most residential and commercial areas of the City. The existing street network in this area has sufficient capacity to accommodate the potential increase in traffic as a result of this proposal.

### ***Applicable Fees:***

This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. All applicable fees shall be calculated and paid at the fee rates in effect at the time of building permit issuance.



***Environmental Review:***

The project is exempt from the California Environmental Quality Act (CEQA) as it is a Class 1 exemption per Guideline 15301, reuse of an existing industrial building.

**PUBLIC NOTICE AND COMMENT:**

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Public hearing notification is applicable. A total of 64 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on April 8, 2009. A Public Hearing Notice was published by *The Tri City Voice* on April 8, 2009.

One phone call from a neighboring business owner was received by staff. The individual expressed concerns related to the proposed use, storage and transport of hazardous materials.

**ENCLOSURES:**

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***Exhibits:***

Exhibit "A" Site plan, floor plans, elevations  
Exhibit "B" findings and conditions

***Informational Items:***

Informational Item #1 Applicant's statement of operations

**RECOMMENDATION:**

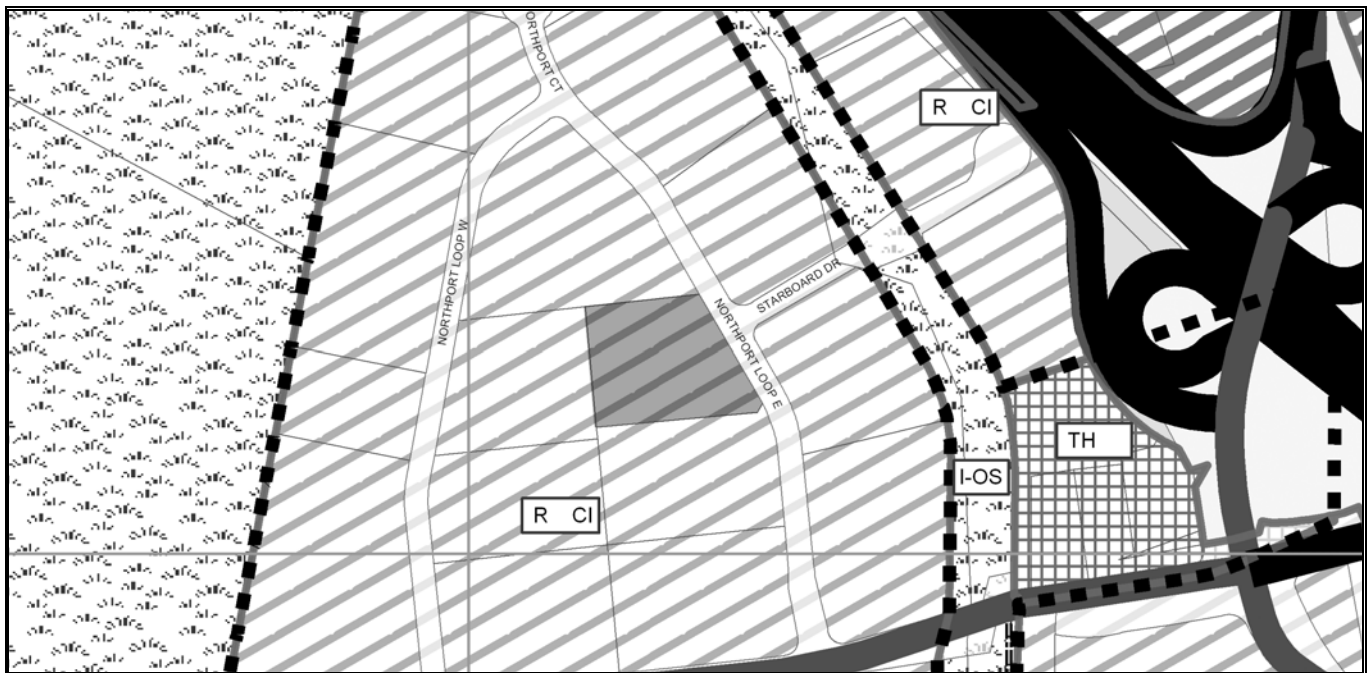
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1. Hold public hearing.
2. Find that the project is categorically exempt from the California Environmental Quality Act (CEQA) under Guideline 15301 of the CEQA Class 1 exemptions because it is a reuse of an existing industrial manufacturing facility.
3. Find that the proposal to store, use and transport hazardous materials as a component of the processing of solar cells is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan's Health and Safety Chapter as enumerated within the staff report.
4. Approve the levels of hazardous materials above what are permitted, as shown on Exhibit "A", subject to findings and conditions in Exhibit "B".

**Existing Zoning**  
Shaded Area represents the Project Site



**Existing General Plan**



**EXHIBIT “B”**  
**Findings and Conditions of Approval**  
**For PLN2009-00188, Sierra Solar Power**  
**45645 & 45655 Northport Loop East**

**FINDINGS:**

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Zoning Administrator dated April 20, 2009, incorporated hereby.

*Zoning Administrator Permit Findings:*

- a. The proposed use is consistent with the general plan because it conforms to the goals, objectives and policies of the Health and Safety Chapter of the General Plan in that the proposed facility is co-located with other like users and has submitted storage, handling and waste disposal plans to the satisfaction of the Hazardous Materials Unit of the City;
- b. The site is suitable and adequate for the proposed use because the subject site is located in the Restricted Industrial zone of the City which is envisioned to house the facilities in the City that handle, store and utilize hazardous materials;
- c. The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services because the project site is in an established industrial facility area that is located to the west of the I-880 interstate in order to limit access to necessary vehicular traffic;
- d. The proposed use would not have a substantial adverse economic effect on nearby uses because the proposal is a manufacturing and testing facility that will not be open to the public and will be generating materials and data that could potentially be useful to other facilities in the area;
- e. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood or the community at large because there are no persons residing in the immediate vicinity;
- f. The proposed design is compatible with adjacent uses within the district and the surroundings of the proposal because the proposal involves the reuse of an existing building constructed in 1985 for the purpose of housing an industrial user.

**CONDITIONS OF APPROVAL:**

- 1) The applicant shall comply with all requirements of the 2007 California Building and Fire Codes as amended by the City of Fremont (COF) Ordinances 31-2007 and 32-2007 respectively. Of particular note are the COF amendments regarding fire sprinklers, fire and toxic gas monitoring systems and hazardous materials storage and use. All future tenant improvements shall comply with the codes in effect at the time of permit issuance.
- 2) The proposed use, storage, use and disposal of hazardous materials at levels above what is permitted in conjunction with the processing of solar cells, shall conform to the operation statement

described in Exhibit "C" and the site plan depicted in Exhibit "B" and all conditions of approval set forth herein.

- 3) All exterior improvements shall match the existing exterior and shall retain a unified business park appearance.
- 4) The project is subject to Citywide Development Impact Fees, including fees for capital facilities, traffic impacts, and fire protection. Applicable fees must be paid in full prior to issuance of the Zoning Administrator certificate and occupancy of the proposed tenant space. Fees will be calculated at the rate in effect at the time the occupancy permit is issued.
- 5) The applicant must submit a City of Fremont *Waste Handling Plan* prior to beginning any demolition or construction. The *Waste Handling Plan* must be approved by Environmental Services before permits are issued.
- 6) The contractor must ensure that trash (non-recyclable construction and demolition debris) is removed from the site during construction per the Fremont Municipal Code, by one or more of the following methods (FMC IV, Ch 2, 4-2300):
  - a. Contacting the City's franchised waste hauler, Allied Waste Services, to arrange for use of debris box containers for all municipal solid waste to be landfilled;
  - b. Removal from the premises by the construction or demolition contractor, using their own equipment and vehicles, as part of a total construction, remodeling or demolition service offered by that contractor.
- 7) Within thirty days of completion of the work, the applicant must file a Waste Disposal & Diversion Report documenting actual diversion and disposal of construction and demolition debris, along with the disposal receipts or weight tags. Copies of the Waste Handling Plan and the Waste Disposal & Diversion Report forms are attached in the Waste Handling Guidelines document.
- 8) The applicant shall work with staff to ensure that the existing trash enclosure is sufficient for the use proposed. Existing trash enclosures shall be reviewed for conformance with City standards, and upgraded as necessary, including exterior improvements to present a harmonious and attractive site.
- 9) New construction in existing on-site easements shall be subject to approval by the City of Fremont and the easement holder.
- 10) This Zoning Administrator permit shall be subject to revocation by the Zoning Administrator or City Council at such time as any of the following conditions are found to exist:
  - a. Conditions of approval have not been fulfilled;
  - b. The use has resulted in a substantial adverse effect on the health and/or general welfare of users of adjacent or proximate property; or
  - c. The use has resulted in a substantial adverse impact on public facilities or services.

## **END OF CONDITIONS**